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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,423	07/02/2003	Richard O. Moore JR.	005950-776	5140

7590 08/02/2005

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EXAMINER	
GRIFFIN, WALTER DEAN	
ART UNIT	**PAPER NUMBER**
1764	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,423	MOORE ET AL.	
	Examiner	Art Unit	
	Walter D. Griffin	1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 5-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The objection to the specification as described in the office action mailed on February 22, 2005 is withdrawn in view of the amendment filed on June 14, 2005.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, and 5-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al. (US 4,605,678) in view of Ketley et al. (US 6,635,682) and Kolling et al. (US 2,852,546).

The Brennan reference discloses a process for removing catalyst fines from a F-T product. The process comprises passing the product through a filter to remove the fines. Brennan also discloses that the product may be further upgraded by hydrotreating. See column 5, lines 46-68.

The Brennan reference does not disclose a distillation step subsequent to the filtering step.

The Ketley reference discloses a process for removing contaminants resulting from the catalyst used in an F-T process. The product from the F-T process may be purified by filtration or, alternatively, by distillation. See column 9, lines 5-14.

The Kolling reference discloses the distillation of the product from an F-T process. The process comprises two-stage distillation with the second stage being operated under reduced pressure (i.e., vacuum distillation). See column 2, lines 24-46.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Brennan by including a distillation step after the filtering step as suggested by Ketley and Kolling because a distillation step will remove contaminants and will result in the production of valuable product fractions. Including a distillation step would necessarily remove soluble contaminants.

Regarding the volume percent of fractions, percent of contamination isolated in the bottom fraction, and boiling ranges for the fractions, such characteristics are a function of

distillation conditions and it would have been obvious to one having ordinary skill in the art to adjust conditions to produce products of desired purity and composition.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Brennan to remove particulates having the claimed sizes because one would remove particles of certain sizes such that the product is sufficiently purified.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have hydrotreated any fraction resulting from distillation because upgraded products will be obtained.

Response to Arguments

The argument that the Brennan reference discloses the removal of particles smaller than 1 micron in size whereas the claimed process includes a filtering step to remove particles having an average size of greater than or equal to about 1 micron is not persuasive. There is nothing in the Brennan reference to suggest that particles having sizes within the claimed range are not removed. In fact, it is clear that the Brennan process does remove particles having sizes less than the claimed range and particles having sizes within the claimed range.

The argument that the combination of the references does not disclose or suggest the claimed method is not persuasive. The Brennan reference clearly discloses the removal of particulates by filtration. The fact that the Brennan removes smaller particles in the filtering step than claimed does not nullify the advantage of including a distillation step in the Brennan process as suggested by Ketley and Kolling as described above. In fact, while Brennan discloses

that substantially all the fines are removed in the magnetic filtration step, it is clear that some fines remain in the F-T product stream after this step because Brennan discloses the potential need for further filtration. See column 9, lines 20-24. Therefore, the examiner maintains that one would be motivated to include the steps of Ketley and Kolling in the process of Brennan in order to provide a product of increased purity.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is (571) 272-1447. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter D. Griffin
Primary Examiner
Art Unit 1764

WG
July 26, 2005